

Testimony on HB445, the Farmer Protection Bill, before the Senate Agriculture Committee, 3/17/09

My name is Arlo Skari (spelled out); my family and I farm north of Chester near the Sweetgrass Hills. We are members of the Farmers Union and the Montana Grain Growers but I am only representing our farm today. I come in strong support of HB 445, the Farmer Protection Bill.

This bill is badly needed because of the many cases of farms suddenly being put under legal harassment by patented seed companies because of alleged infringement of patent rights in spite of the farmer not knowing the seeds were there.

An article in Sunday's Great Falls Tribune quotes an Indiana farmer who found himself on the receiving end of Monsanto's accusations of seed piracy. He stated that if it wasn't for the Indiana Farmer Protection law, he would have lost the farm due to legal fees, travel expenses and being away from the farm. (Missouri) The law did two things to help him, it prevented the seed company from coming onto his farm to sample crops without his permission and any legal action against him was to take place in Indiana Federal Court.

HB 445 concentrates on three actions: One, it protects all farmers and ranchers whether conventional, organic or specialty crop operations from liability if they unknowingly acquire or possess patented seeds or plants.

Two: This bill ensures that all legal cases involving patent infringement be tried in Montana Courts where the injury is alleged to have occurred.

Three: It establishes a mandatory crop sampling protocol to be used by patent holders when investigating farmers they believe to have violated plant patents or seed contracts. . No more barging into someone's property to take samples without their permission. In the absence of a farmer protection law, patented seed companies have conducted what could be compared to a pre-emptive strike (get them before they get us so to speak) or to a warrantless intrusion.

Under HB 445, If the farmer refuses entry, the patent holder can petition the court for an order granting permission. This bill will do great things in improving farmer-patented seed holder relations.

What it doesn't do is this: It is not anti-patented seed, anti-bio-technology or anti big company. Basically, it honors the rights of patent holders while also respecting the rights of farmers and other landowners when faced with patent infringement allegations. A certain number of proponents here today spent time and expense to craft HB 445 so it would be fair to all parties.

Nor does it attach liability on the patented seed holder nor affect the contracts farmers sign when buying and using patented seeds. It does call for the mandatory crop sampling protocol in patent infringement allegations

I have attempted to understand the patented seed holder's concern in opposing this bill. They have a lot of money into research developing their patented seeds and, rightfully, don't want seed stolen from them.

But only so much security can be imposed before it runs into the Bill of Rights. Ben Franklin, while working on our Constitution, warned the delegates (that often quoted phrase) that if we trade freedom for security, we deserve neither. HB445 provides a badly needed balance and is as good as it's going to get.

I am asking members of this committee to support this bill; it should be non-partisan. Thank you.